Faulk v. GE

United States District Court for the Central District of California

February 3, 2026, Decided; February 3, 2026, Filed

CV 23-05132-MWF (MAAx)

Reporter
2026 U.S. Dist. LEXIS 24470 *; 2026 LX 50887

Gary L. Faulk et al v. General Electric Company et al

Prior History: Faulk v. GE, 2024 U.S. Dist. LEXIS 87907, 2024 WL 3009315 (May 14, 2024)

Core Terms

exposure, asbestos, summary judgment, assembler, punitive damages, aircraft, sand, non-moving, summary judgment motion, no evidence, mesothelioma, manufacture, conspiracy, dust, reasonable inference, triable, expose, fraudulent misrepresentation, circumstantial evidence, fraudulent concealment, exposed to asbestos, substantial factor, asbestos-containing, causation, threshold, burden of proof, asbestos fiber, genuine

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Judges: MICHAEL W. FITZGERALD, United States District Judge.

Opinion by: MICHAEL W. FITZGERALD

Opinion

CIVIL MINUTES—GENERAL

Proceedings (In Chambers): ORDER RE: DEFENDANT LOCKHEED MARTIN'S MOTION FOR SUMMARY JUDGMENT [275]; DEFENDANT ROHR'S MOTION FOR SUMMARY JUDGMENT [277]

Before the Court are two motions (the "Motions"):

The first is a Motion for Summary Judgment filed by Defendant Lockheed Martin Corporation, on October 20, 2025. (Docket No. 275 ("Lockheed Motion")). Plaintiffs Andrew [*3] D. Faulk, Ethan G. Faulk, Gary L. Faulk, and Matthew A. Faulk filed an Opposition on November 3, 2025. (Docket No. 281 ("Lockheed Opp.")). Lockheed filed a Reply on November 10, 2025. (Docket No. 285).

The second is a Motion for Summary Judgment filed by Defendant Rohr, Inc., on October 20, 2025. (Docket No. 277 ("Rohr Motion"); *see also* Notice of Errata (Docket No. 286)). Plaintiffs filed an Opposition on November 3, 2025. (Docket No. 282 ("Rohr Opp."); *see also* Notice of Errata (Docket No. 283)). Rohr filed a Reply on November 10, 2025. (Docket No. 287).

The Court has read and considered the papers on the Motion and held a hearing on **November 24, 2025**.

The Court rules as follows:

- The Lockheed Motion is **GRANTED** and Lockheed is **DISMISSED** from this action. Plaintiffs have not pointed to evidence sufficient to support a reasonable inference that Alvarez was exposed to asbestos attributable to his work on non-military aircraft at Lockheed.

- The Rohr Motion is **DENIED *in part*** and **GRANTED *in part***. The Motion is **DENIED** as to actual exposure, legal causation, and fraudulent concealment. However, the Rohr Motion is **GRANTED** as to Plaintiffs' claims for products liability, fraudulent conspiracy, [*4] fraudulent misrepresentation, and punitive damages.

I. BACKGROUND

The following facts are based on the evidence, as viewed in the light most favorable to Plaintiff as the non-moving party. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986) (On a motion for summary judgment, "[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his [her, or its] favor.").

Plaintiffs sued multiple defendants, including Lockheed and Rohr, for damages related to Decedent Alice Faulk's asbestos exposure. (Plaintiffs' Response to Statement of Genuine Disputes in Opposition to the Lockheed Motion ("SGDL") (Docket No. 281-1) ¶ 1). Plaintiffs' theory is that Decedent was exposed to take-home asbestos because Decedent's father, Eleaquim Rene Alvarez, was a career aerospace worker specializing in airframe and structural work. (*Id.* ¶¶ 2-3). On the basis of these allegations, Plaintiffs set forth claims for strict liability, design defect, failure to warn, negligence, and fraud. (*See* Complaint at 9-17).

Alvarez worked at Lockheed Martin's Burbank facility from 1962 to 1971. (SGDL ¶¶ 4, 12-13). Plaintiffs were not able to locate a witness who remembered the specifics of Alvarez's time at Lockheed or who could speak [*5] to the exact nature of his work. (Plaintiffs' Additional Undisputed Material Facts in Opposition to the Lockheed Motion ("AUMFL") (Docket No. 281-1 at 58) ¶ 15). But records indicate that Alvarez joined Lockheed as a "Structural Assembler" and remained in that role for most of his time at Lockheed. (AUMF ¶ 20).

According to Dr. Michael Ellenbecker, Dr. William Longo, and Dr. Barry Horn, the experts cited by Plaintiffs, asbestos was widely used throughout aircraft manufacturing during the period of Mr. Alvarez's employment. (*Id.* ¶¶ 39-41). Dr. Longo further testifies that assemblers were among the workers likely to encounter airborne asbestos fibers. (*See* Expert Report of William E. Longo, Ph.D. (Docket No. 281-5) at 2).

In 1999, Boice, Marano, et al. published a paper titled "Mortality Among Aircraft Manufacturing Workers." (AUMFL ¶ 8). The authors had been commissioned by Lockheed to conduct a "large epidemiological study of aircraft manufacturing workers" at Lockheed's Burbank facility, including Alvarez. (AUMFL ¶¶ 9, 12, 18). The study revealed that 1,231 of the 80,000 workers studied were estimated to have worked with asbestos. (*Id.* ¶ 10). One expert for Plaintiffs opined that the [*6] Boice study underestimated asbestos related exposures because the authors used death certificates to identify the cause of death, which has been shown to underestimate the number of deaths from mesothelioma. (*Id.* ¶ 35).

Alvarez also worked at Rohr from 1973 to 1988, again as an aircraft assembler. (Plaintiffs' Additional Undisputed Material Facts in Opposition to the Rohr Motion ("AUMFR") (Docket No. 282-1 at 71) ¶¶ 3-4). While at Rohr, Alvarez worked alongside George Valdillez and David Pitonyak. (*Id.* ¶¶ 8-11, 70-73). Alvarez and Valdillez both worked in Building 30 performing similar assembler duties. (*Id.* ¶¶ 13-14). Alvarez and Pitonyak both worked in Building 5 for a few years as assemblers. (*Id.* ¶ 71).

Rohr assemblers regularly used EA-934, an epoxy provided by Rohr, when they needed to seal part of a project. (*Id.* ¶¶ 23-32, 74-76, 86). Valdillez testified that he saw Alvarez use EA-934 for such a purpose. (*Id.* ¶¶ 31, 35). After being applied to a project, EA-934 hardens and must be sanded down, producing dust. (*Id.* ¶¶ 36-37, 41, 79, 87-88, 94). Valdillez also testified that he saw Alvarez sand down EA-934. (*Id.* ¶¶ 49, 53). At the conclusion of an assembler's shift, the assembler [*7] would clean their workstation with a dust broom or air blower provided by Rohr, spreading visible dust. (*Id.* ¶¶ 56-59, 95, 97-100). EA-934 contains asbestos, and exposure levels would increase when sanded or blown. (*Id.* ¶¶ 121-130).

Alvarez and others would wear their street clothes to work. (*Id.* ¶ 61). Rohr did not provide locker rooms, showers, or laundry service. (*Id.* ¶ 62).

Decedent was born in 1962 and lived in the family home until her marriage in 1988. (SGDL ¶ 10). Her older sister recounts that, during Decedent's childhood and while Alvarez was employed by Lockheed and Rohr, Alvarez would bring his work clothes home and the children would clean them for him. (AUMFL ¶ 21-25). Alvarez's shop apron and socks were often soiled and dusty. (*Id.* ¶¶ 24, 26, 30). Alvarez would also often hug the children, pick them up, and sit with them, often while wearing his work clothes. (*Id.* ¶¶ 27-34). Decedent died of malignant mesothelioma in 2022. (*Id.* ¶ 2).

II. LEGAL STANDARD

In deciding a motion for summary judgment under Rule 56, the Court applies *Anderson*, *Celotex*, and their Ninth Circuit progeny. *Anderson*, 477 U.S. at 255; *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986). "The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact [*8] and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

The Ninth Circuit has defined the shifting burden of proof governing motions for summary judgment where the non-moving party bears the burden of proof at trial:

> The moving party initially bears the burden of proving the absence of a genuine issue of material fact. Where the non-moving party bears the burden of proof at trial, the moving party need only prove that there is an absence of evidence to support the non-moving party's case. Where the moving party meets that burden, the burden then shifts to the non-moving party to designate specific facts demonstrating the existence of genuine issues for trial. This burden is not a light one. The non-moving party must show more than the mere existence of a scintilla of evidence. The non-moving party must do more than show there is some "metaphysical doubt"

> as to the material facts at issue. In fact, the non-moving party must come forth with evidence from which a jury could reasonably render a verdict in the non-moving party's favor.

Coomes v. Edmonds Sch. Dist. No. 15, 816 F.3d 1255, 1259 n.2 (9th Cir. 2016) (quoting *In re Oracle Corp. Sec. Litig.*, 627 F.3d 376, 387 (9th Cir. 2010)).

"A motion for summary judgment may not be defeated, however, by evidence that is 'merely colorable' or 'is not significantly probative.'" [*9] *Anderson*, 477 U.S. at 249-50. "When the party moving for summary judgment would bear the burden of proof at trial, 'it must come forward with evidence which would entitle it to a directed verdict if the evidence went uncontroverted at trial.'" *C.A.R. Transp. Brokerage Co. v. Darden Rests., Inc.*, 213 F.3d 474, 480 (9th Cir. 2000) (quoting *Houghton v. South*, 965 F.2d 1532, 1536 (9th Cir. 1992)).

III. ROHR'S EVIDENTIARY OBJECTIONS

Rohr raises objections to the evidence submitted in connection with the Plaintiffs' Opposition. (*See* Docket No. 287-2). The objections are largely garden-variety evidentiary objections such as hearsay and lack of foundation.

While these objections may be cognizable at trial, the Court is concerned only with the admissibility of the relevant facts at trial, and not the form of these facts as presented on a motion for summary judgment. *See Sandoval v. County of San Diego*, 985 F.3d 657, 666 (9th Cir. 2021) ("[A]t the summary judgment stage, we do not focus on the admissibility of the evidence's form. We instead focus on the admissibility of its contents." (citations omitted)). Where "the contents of a document can be presented in a form that would be admissible at trial — for example, through live testimony by the author of the document — the mere fact that the document itself might be excludable hearsay provides no basis for refusing to consider it on summary judgment." *Id.* (citations omitted). [*10] It follows that most of Rohr's evidentiary objections are a poor fit for the Court's consideration at the summary judgment stage.

Accordingly, to the extent that the Court relies upon evidence to which Rohr objects, the objections are **OVERRULED**. To the extent the Court does not, the objections are **DENIED *as moot***.

IV. DISCUSSION

A. Jurisdiction

As a threshold matter, Plaintiffs argue that the Court lacks jurisdiction to decide the Motions. (Lockheed Opp. at 17; Rohr Opp. at 14). Plaintiffs renew the arguments made in their prior Motions to Remand (Docket Nos. 76, 230), namely that this Court lost jurisdiction when the parties filed stipulated waivers of Defendants' federal defenses. (*See* Docket Nos. 135-36, 140).

The Court rejected Plaintiffs' arguments in its Prior Order Denying Plaintiffs' Motion to Remand (the "Prior Order"). (Docket No. 246). For the reasons explained in its Prior Order, the Court will retain — as it may — supplemental jurisdiction over this action through adjudication of the pending dispositive motions, but will thereafter remand this action. (*Id.* at 2).

Accordingly, the Court retains jurisdiction at this time. The Court will remand this action in a separate forthcoming [*11] order.

B. Lockheed Motion

Lockheed moves for summary judgment on the grounds that Plaintiffs cannot establish two essential components of their asbestos take-home claims: (1) that Decedent's father, Alvarez, was actually exposed to asbestos attributable

to Lockheed during his employment at the Burbank facility; and (2) that any such exposure was a substantial factor in causing Decedent's eventual development of pleural mesothelioma. (Lockheed Motion at 11-16).

In asbestos-related latent injury cases, a plaintiff "must first establish some threshold exposure to the defendant's defective asbestos-containing products." *Rutherford v. Owens-Illinois, Inc.*, 16 Cal. 4th 953, 982, 67 Cal. Rptr. 2d 16, 941 P.2d 1203 (1997). The plaintiff bears the burden of proof on the issue of threshold exposure. *McGonnell v. Kaiser Gypsum Co., Inc.*, 98 Cal. App. 4th 1098, 1103, 120 Cal. Rptr. 2d 23 (2002). "If there has been no exposure, there is no causation." *Id.* "The mere 'possibility' of exposure does not create a triable issue of fact." *Andrews v. Foster Wheeler LLC*, 138 Cal. App. 4th 96, 108, 41 Cal.Rptr.3d 229 (2006). "'[P]roof that raises mere speculation, suspicion, surmise, guess or conjecture is not enough to sustain [the plaintiff's] burden' of persuasion." *Izell v. Union Carbide Corp.*, 231 Cal. App. 4th 962, 969, 180 Cal. Rptr. 3d 382 (2014) (quoting *Ulwelling v. Crown Coach Corp.*, 206 Cal. App. 2d 96, 104-05, 23 Cal. Rptr. 631 (1962)).

At the same time, the case law also makes clear that direct evidence of exposure is not necessary to survive summary judgment, and circumstantial evidence may support a jury's reasonable inference of [*12] exposure. *See Lineaweaver v. Plant Insulation Co.*, 31 Cal. App. 4th 1409, 1420, 37 Cal. Rptr. 2d 902 (1995) (reversing judgment of nonsuit because, despite no direct evidence of exposure, plaintiff had "established that defendant's product was definitely at his work site and that it was sufficiently prevalent to warrant an inference that plaintiff was exposed to it during his more than 30 years of working with and around asbestos throughout the refinery"). "At the very least, the plaintiff must provide circumstantial evidence sufficient to support a reasonable inference that the defendant's asbestos products or activities were present at [the relevant] work site." *Casey v. Perini Corp.*, 206 Cal. App. 4th 1222, 1237, 142 Cal. Rptr. 3d 678 (2012) (cleaned up).

Applying these principles, the Court concludes that Plaintiffs have not offered sufficient evidence to create a triable issue of fact as to whether Alvarez was exposed to asbestos from non-military projects at Lockheed's Burbank facility.

Plaintiffs offer only circumstantial evidence of exposure for which Lockheed is responsible. Specifically, Plaintiffs rely on Alvarez's job title ("Structural Assembler") (AUMFL ¶ 20), the fact that he worked at the Burbank facility for nearly a decade (*id.*), generalized evidence that asbestos was used in aircraft manufacturing during the relevant era (*id.* ¶¶ 39-41), [*13] and the Boice study reflecting that some employees at the facility were estimated to have worked with asbestos. (*Id.* ¶¶ 10, 12).

This combination of evidence, however, is insufficient to permit a reasonable inference of exposure under California law. Plaintiffs rely heavily on *Lineaweaver* to argue that they have met their burden. But the evidence here is distinguishable from the specific evidence found sufficient in that case. In *Lineaweaver*, the plaintiff worked as an insulator at a refinery for 34 years and established that the defendant's product was "definitely" at his work site and "sufficiently prevalent" in the site's permanent insulation to warrant a reasonable inference of exposure. 31 Cal. App. 4th at 1419-20. Unlike the refinery in *Lineweaver*, there is no evidence here "that the jobsites at which [Alvarez] worked were laden with ***permanently installed*** asbestos products." *Casey*, 206 Cal. App. 4th at 1238 (distinguishing *Lineweaver* and affirming summary judgment in favor of defendant) (emphasis added).

The record here is more analogous to the circumstantial evidence held insufficient in *Casey* and *McGonnell*. In *Casey*, the plaintiff testified that he saw dust and debris at jobsites where the defendant was the general contractor. 206 Cal. App. 4th at 1226. The plaintiff did not know if the dust contained [*14] asbestos, but an expert testified that pre-1980 surfacing materials typically contained asbestos. *Id.* The court nevertheless affirmed summary judgment for the defendant, noting that "[m]issing from the claimed 'circumstantial evidence' in this case is any connection between [the defendant's] activities and [the plaintiff's] exposure to asbestos." *Id.* at 1239. Likewise, in *McGonnell*, evidence suggested the defendant's asbestos-containing products may have been delivered to a medical complex, but summary judgment was affirmed because the remaining proof required speculation about whether the products were actually present where the plaintiff worked and were disturbed in his presence. 98 Cal. App. 4th at 1105-06.

Here, Plaintiffs ask the jury to infer exposure from primarily a job title, generalized industry usage, and a study indicating that 1,231 of 80,000 Lockheed Burbank workers were estimated to have worked with asbestos. (AUMFL

¶¶ 10, 20). But that evidence at most establishes a "possibility" of exposure — *i.e.*, that "given the relevant time period" and Alvarez's worksite, "at some point [Alvarez] might have worked" on projects that exposed him to asbestos. *Casey*, 206 Cal. App. 4th at 1239. Plaintiffs' circumstantial evidence does not create a reasonable inference [*15] that asbestos was "definitely" present and "sufficiently prevalent" to warrant an inference of exposure. *See Lineaweaver*, 31 Cal. App. 4th at 1420.

And Plaintiffs' expert testimony does not bridge this evidentiary gap. "Expert testimony cannot create a genuine issue of material fact if it rests on assumptions that are not supported by the evidence." *Stephens v. Union Pacific R.R. Co.*, 935 F.3d 852, 856 (9th Cir. 2019) (citing Fed. R. Evid. 702(b)). Here, Plaintiffs point to expert opinions that are based on generalized "literature demonstrating an increased risk for mesothelioma in airplane manufacturing" and among assemblers. (AUMFL ¶ 41; *see also id.* ¶¶ 39-40). The opinions do not discuss and are not based on the specific nature of Alvarez's work at Lockheed. (*See generally* Expert Report of Michael Ellenbecker, Sc.D., CIH (Docket No. 281-3); Expert Report of William E. Longo, Ph.D. (Docket No. 281-5)). Dr. Ellenbecker, for example, testified that he was not aware of any such specifics. (Deposition Transcript of Dr. Michael Ellenbecker (Docket No. 275-3, Ex. P) at 56:20-57:25). As in *Stephens*, "the fundamental problem" for Plaintiffs here is "the lack of evidence about exactly what happened." 935 F.3d at 857. "That is not a subject on which [Plaintiffs'] experts have any expertise — or any other basis for knowledge — so their testimony [*16] cannot fill the evidentiary gap." *Id.* (affirming summary judgment in favor of defendant employer).

At the hearing, Lockheed raised another argument that underscores the absence of material evidence in the record. Plaintiffs waived any claims stemming from Alvarez's work on military aircraft as opposed to, for example, commercial aircraft. (*See* Docket No. 140; *see also* Docket No. 246 (construing that stipulated waiver as dismissal on the merits of all federal law claims and defenses)). Yet Plaintiffs offer no evidence identifying the nature of Alvarez's work, let alone whether he worked on commercial aircraft at all. On this record, any inference of actionable exposure — *i.e.*, not just that Alvarez was exposed but that he was exposed while working on a nonmilitary project — would rest solely on stacking assumptions and a "dwindling stream of probabilities that narrow into conjecture." *Lineaweaver*, 31 Cal. App. 4th at 1421. This failure of proof mirrors that of the unsuccessful plaintiffs in *Lineaweaver*. While the successful plaintiff in *Lineaweaver* proved the defendant's product was sufficiently prevalent at his refinery, the court affirmed nonsuit against two other plaintiffs because, although the defendant's product was used as a "fill-in" [*17] insulator at their shipyard, there was no evidence it was used on the specific ships they manned. *Id.* at 1420-21.

In sum, Plaintiffs have not created a triable issue as to whether Alvarez was exposed to asbestos while working on commercial aircraft during his time at Lockheed. "The mere 'possibility'" of such exposure "does not create a triable issue of fact." *Andrews*, 138 Cal. App. 4th at 108; *see also Casey*, 206 Cal. App. 4th at 1239 ("Mere speculation or conjecture about exposure to asbestos . . . is insufficient to demonstrate the existence of a triable issue of fact to preclude summary judgment.").

Accordingly, the Lockheed Motion is **GRANTED**. Because exposure is a threshold issue for all of Plaintiffs' claims against Lockheed, Lockheed is **DISMISSED** from this action.

C. Rohr Motion

Rohr moves for summary judgment on several independent grounds, including lack of exposure, lack of substantial factor causation, the unavailability of strict products liability, and the absence of evidence to support Plaintiffs' fraud, conspiracy, and punitive damages theories. (*See generally* Rohr Motion).

1. Actual Exposure

Rohr, like Lockheed, first moves for summary judgment on the grounds that there is no evidence that Alvarez was actually exposed to asbestos for which Rohr was [*18] responsible. (*Id.* at 8-13). As previously discussed, that is a threshold requirement for a plaintiff in an asbestos liability action. *Rutherford*, 16 Cal. 4th at 969-70. It is a

requirement, however, that may be met via circumstantial evidence, and a plaintiff need not provide eyewitness observation of the precise moment the decedent handled or inhaled asbestos fibers — often an impossible task considering the long latency periods associated with mesothelioma. *See Lineaweaver*, 31 Cal. App. 4th at 1420.

As to Rohr, Plaintiffs plainly satisfy their burden on this element at the summary judgment stage. Plaintiffs point to the testimony of two long-tenured Rohr assemblers who attest that (1) EA-934 was used "all day, every day" in the assembly buildings in which Alvarez worked (AUMFR ¶¶ 30-35, 84); (2) sanding and grinding EA-934 produced heavy, visible dust (*id.* ¶¶ 36-40, 94); (3) assemblers — including Alvarez — performed similar task in an open, shared workspace (*id.* ¶¶ 22, 46-47); and (4) workers blew themselves and their spaces off with compressed air, causing dust to spread. (*Id.* ¶¶ 56-60, 94-97). Plaintiffs also submit expert opinions that EA-934 contained asbestos during the relevant period and that sanding it released respirable asbestos fibers. ([*19] *Id.* ¶¶ 118-128). The experts opined that, based on the above, Alvarez was likely exposed to asbestos while working with Rohr. (*Id.* ¶ 115-17).

Rohr counters that the testifying co-workers lack personal knowledge and are instead only assuming that they saw Alvarez sand EA-934. (Rohr Reply at 3). But their testimony speaks for itself. (*See, e.g.*, Deposition Transcript of George Valdillez (Docket No. 282-9) at 187:7-189:18). The arguments raised by Rohr go to the weight of that testimony, not its admissibility, and certainly not its sufficiency in creating a triable issue at summary judgment. In any case, the evidence is equally forceful even if Alvarez did not sand EA-934 himself and was simply "in the general vicinity of other co-workers who were sanding cured EA-934 epoxy." (AUMFR ¶ 132). What matters is that the record permits a reasonable inference that Alvarez was repeatedly exposed to asbestos-containing dust in shared airspace as part of his daily job duties at Rohr.

Accordingly, the Rohr Motion is **DENIED** as to actual exposure.

2. Substantial Factor

Rohr's Motion fairs no better as to the issue of legal causation and whether any such exposure was a substantial factor in causing Decedent's [*20] mesothelioma.

Even if a plaintiff establishes some threshold exposure to asbestos, a plaintiff "must further establish in reasonable medical probability that a particular exposure or series of exposures was a 'legal cause' of [her] injury, i.e., a *substantial factor* in bringing about the injury." *Rutherford*, 6 Cal. 4th at 982-83 (emphasis in the original).

"The substantial factor standard is a relatively broad one, requiring only that the contribution of the individual cause be more than negligible or theoretical." *Id.* at 978. "Factors relevant to assessing whether such a medical probability exists include frequency of exposure, regularity of exposure and proximity of the asbestos product to the plaintiff." *Weber v. John Crane, Inc.*, 143 Cal. App. 4th 1433, 1438, 50 Cal. Rptr. 3d 71 (2006); *see also Stephens*, 935 F.3d at 856 (explaining that legal causation may be established with evidence that exposure to asbestos-containing product was "sufficiently sustained (or frequent) and intense").

Plaintiffs provide evidence that sanding and grinding an asbestos-containing adhesive like EA-934 would have generated significant amounts of respirable asbestos fibers. (AUMFR ¶¶ 130-132). And due to the severity of the exposure, Alvarez's children, including Decedent, would have been exposed to "significant levels" of asbestos fibers upon Alvarez's [*21] return home from work. (*Id.* ¶ 133). Decedent would have faced a "significant exposure," for example, every time she helped launder her father's work clothes while he worked for Rohr. (*Id.* ¶ 134). Plaintiffs' experts opined that Decedent's exposures stemming from the use of EA-934 at Rohr would have been a substantial contributing factor in causing her mesothelioma. (*Id.* ¶ 135).

In sum, considering the record as a whole, and particularly the expert testimony offered by Plaintiffs, a reasonable jury could find that Alvarez's exposures at Rohr were a substantial factor contributing to Decedent's mesothelioma.

Accordingly, the Rohr Motion is **DENIED** as to legal causation.

3. Strict Products Liability

Rohr further argues that it is entitled to partial summary judgment as to Plaintiffs' first claim for strict products liability because Rohr did not manufacture or place into the stream of commerce any relevant product containing asbestos. (Rohr Motion at 13). Plaintiffs respond that Rohr provided EA-934 to assemblers in packaging with Rohr specification numbers for routine use across Rohr's assembly lines. (AUMFR ¶¶ 27-28).

"California cases have found that a defendant involved in the marketing/distribution [*22] process may be held strictly liable if three factors are present: (1) the defendant received a direct financial benefit from its activities and from the sale of the product; (2) the defendant's role was integral to the business enterprise such that the defendant's conduct was a necessary factor in bringing the product to the initial consumer market; and (3) the defendant had control over, or a substantial ability to influence, the manufacturing or distribution process." *Petitpas v. Ford Motor Co.*, 13 Cal. App. 5th 261, 270, 220 Cal. Rptr. 3d 185 (2017) (internal quotation marks omitted).

At the hearing, Rohr argued that it was not a "distributor" of EA-934 because it did not receive a direct financial benefit from providing the product to its employees, which also would not constitute a "sale." The Court agrees that there is no evidence in the record indicating that Rohr was a manufacturer or distributor as those terms are defined under California products liability law. *See id.* at 270-74 (affirming summary judgment on strict liability claims in favor of employer oil company after employee sued for exposure from products present at service station).

Accordingly, the Rohr Motion is **GRANTED** as to Plaintiffs' products liability claim.

4. Fraud

Rohr also moves for summary judgment as [*23] to Plaintiffs' fraud claims, which include claims for (1) fraudulent misrepresentation; (2) fraudulent concealment; (3) conspiracy to commit fraudulent misrepresentation; and (4) conspiracy to commit fraudulent concealment. (Rohr Motion at 13).

The first and third claims require evidence of a fraudulent misrepresentation, *i.e.*, an intentional false statement upon which Alvarez or Decedent relied to their detriment. *Brown v. Superior Court*, 44 Cal. 3d 1049, 1070-71, 245 Cal. Rptr. 412, 751 P.2d 470 (1988). Plaintiffs point to no evidence, however, as to any affirmative representation made by Rohr to Alvarez or Decedent, which is fatal to their claim. *See Goldrich v. Nat. Y Surgical Specialties, Inc.*, 25 Cal. App. 4th 772, 783, 31 Cal. Rptr. 2d 162 (1994), *as modified* (June 15, 1994) (requiring a plaintiff to plead "at a minimum . . . a representative selection of alleged misrepresentations" to survive a demurrer).

The fraudulent concealment claims require closer attention. As Rohr correctly notes, those counts require evidence that Rohr had a duty to disclose to Alvarez or Decedent. *See Hoffman v. 162 N. Wolfe LLC*, 228 Cal. App. 4th 1178, 1186, 175 Cal. Rptr. 3d 820 (2014), *as modified on denial of reh'g* (Aug. 13, 2014) ("A fraud claim based upon the suppression or concealment of a material fact must involve a defendant who had a legal duty to disclose the fact."). Contrary to Rohr's assertion, however, there is such a duty here because of the fiduciary relationship [*24] between Rohr and Alvarez as employer and employee. *Id.* at 1187 (listing relationship between employer and employee as creating a duty to disclose). Plaintiffs also point to evidence creating a triable issue as to whether Rohr concealed material facts, including testimony from Rohr's Rule 30(b)(6) witness (AUMFR ¶¶ 157-59), and contemporaneous industrial hygiene literature during the period of Alvarez's employment referencing the known danger of asbestos and certain practices. (*Id.* ¶¶ 162-166). Accordingly, there is no basis to grant Rohr summary judgment on the fraudulent concealment claim.

However, Rohr's arguments as to the conspiracy claims are well-taken, and Plaintiffs do not respond to Rohr's Motion as to those claims. Plaintiffs provide no evidence of any agreement or coordinated conduct by Rohr with any other entity. *See* CACI No. 3600, Conspiracy (2025) (requiring agreement with co-conspirator).

Accordingly, the Rohr Motion is **GRANTED** as to Plaintiffs' claims for fraudulent misrepresentation and fraudulent conspiracy. The Motion is **DENIED** as to Plaintiffs' claim for fraudulent concealment.

5. Punitive Damages

Finally, Rohr seeks partial summary judgment as to Plaintiffs' claim for punitive damages. (Rohr [*25] Motion at 16-18).

At the summary judgment stage, the Court must examine a request for punitive damages under the "clear and convincing" standard required by California law. *California v. Altus Fin. S.A.*, 540 F.3d 992, 1000 (9th Cir. 2008). Pursuant to California Civil Code section 3294, a plaintiff may only recover punitive damages under this heightened standard if the plaintiff can demonstrate that "the defendant has been guilty of oppression, fraud, or malice." Cal. Civ. Code § 3294(a). Punitive damages are only available against a corporate employer where an "officer, director, or managing agent of the corporation" authorizes actions, ratifies actions, or acts themself with "oppression, fraud, or malice." *Barton v. Alexander Hamilton Life Ins. Co. of Am.*, 110 Cal. App. 4th 1640, 1643, 3 Cal. Rptr. 3d 258 (2003) (quoting Cal. Civ. Code § 3294(b)).

Rohr argues that there is no evidence in the record which supports the existence of malice, fraud, or oppression by its managing agents. In response, Plaintiff points to testimony from Rohr's Rule 30(b)(6) witness acknowledging that EA-934 contained asbestos and that this was not a new or surprising fact as of at least 1984. (AUMFR ¶¶ 157-159). Plaintiffs also cite contemporaneous industrial hygiene literature, predating and extending through the period of Alvarez's employment, indicating that sanding or grinding asbestos-containing adhesives could generate significant airborne asbestos levels and that [*26] compressed-air cleaning could create further risks. (*Id.* ¶¶ 162-166).

But even if a jury could conclude that Rohr's actions were unreasonable at the time, there is nothing in the record that rises to the level of the "despicable conduct" covered by section 3294. *See Tomaselli v. Transamerica Ins. Co.*, 25 Cal. App. 4th 1269, 1288, 31 Cal. Rptr. 2d 433, 445 (1994) ("There was nothing done, however, which could be described as evil, criminal, recklessly indifferent to the rights of the insured, or with a vexatious intention to injure."). Moreover, "mere reckless disregard or misconduct cannot be enough to sustain an award of punitive damages[.]" *Butte Fire Cases*, 24 Cal. App. 5th 1150, 1160, 235 Cal. Rptr. 3d 228 (2018), *as modified on denial of reh'g* (July 26, 2018). To the contrary, "'[t]he central spirit of the exemplary damage statute, the demand for evil motive, is violated by an award founded upon recklessness alone.'" *Id.* (quoting *Taylor v. Superior Court*, 24 Cal. 3d 890, 895, 157 Cal. Rptr. 693, 598 P.2d 854 (1979)). Here, Plaintiffs have not pointed to any evidence of evil motive and therefore has not shown that a genuine dispute of material fact exists as to whether punitive damages are warranted by clear and convincing evidence.

Accordingly, the Rohr Motion is **GRANTED** as to Plaintiffs' claim for punitive damages.

V. CONCLUSION

The Lockheed Motion is **GRANTED** and Lockheed is **DISMISSED** from this action. The Rohr Motion is **GRANTED** as to Plaintiffs' [*27] claims for strict products liability, fraudulent misrepresentation, fraudulent conspiracy, and punitive damages, but **DENIED** in all other respects.

A separate order will issue remanding this action to Los Angeles County Superior Court.

IT IS SO ORDERED.
